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60,469-030; OT-4798

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Bowler, et al.
Serial No.: 09/768,407
Filed: 01/24/2001
Group Art Unit: 3629
Examiner: Fisher, Michael J.
For: SYSTEM FOR FACILITATING ELEVATOR DESIGN

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is responsive to the Office Action mailed on September 6, 2006.
Applicant respectfully requests reconsideration of this application.

Applicant respectfully submits that the *Wakelam* reference cannot be modified in a way to render any of the pending claims obvious. The *Wakelam* reference discloses a building design system that is controlled by a person or an entity (e.g., an architect or a construction company) to automate an entire building design process. It cannot be considered obvious to place an elevator company in charge of operating the system of *Wakelam*, which is what would be required to render the system of that document consistent with Applicant's claims. There would be no benefit to modifying *Wakelam's*

60,469-030; OT-4798

system to make it into what Applicant claims. Such a modification would be disadvantageous, at best.

The elevator is only one portion of the building that *Wakelam's* system is intended to design. Giving control over *Wakelam's* system to an elevator company (e.g., the Examiner's proposed modification) would remove control over the design process from those ultimately responsible for the building design. Instead, that responsibility would be given to a company that may (or may not) eventually win a contract to supply the components for one aspect of the building (i.e., an elevator). That interferes with or even defeats *Wakelam's* intended result of automating an entire building design process for those who will be ultimately responsible for the entire building process. Even if the elevator company in charge of such a modified version of *Wakelam's* system ultimately provides the elevator components and installs them, there is no reason to provide that company ultimate control over the information pertaining to the rest of the building that is of no interest to the elevator company.

Such a modification is not permissible when attempting to establish a *prima facie* case of obviousness under 35 USC §103 because it provides no benefit and is contrary to the intended results provided by *Wakelam*. Whenever a proposed modification to a reference provides no benefit or goes contrary to the teachings of the primary reference, there is no motivation for making the proposed modification and no *prima facie* case of obviousness. In this instance, the proposed modification to *Wakelam* provides no benefit and is contrary to the goal of allowing a person or entity to automate an entire building design process. If either were true, there would be no *prima facie* case of obviousness. Here both are true and there is no *prima facie* case.

60,469-030; OT-4798

Applicant respectfully submits that this case is in condition for allowance.

Respectfully submitted,

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Dated: November 6, 2006

CERTIFICATE OF FACSIMILE

I hereby certify that this Response, relative to Application Serial No. 09/768,407, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on November 6, 2006.


David Gaskey

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